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A BILL FOR AN ACT

RELATING TO AGRICULTURAL LAND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECT	ION 1. Section 205-2, Hawaii Revised Statutes, is
2	amended by	y amending subsection (d) to read as follows:
3	"(d)	Agricultural districts shall include:
4	(1)	Activities or uses as characterized by the cultivation
5		of crops, crops for bioenergy, orchards, forage, and
6		forestry;
7	(2)	Farming activities or uses related to animal husbandry
8		and game and fish propagation;
9	(3)	Aquaculture, which means the production of aquatic
10		plant and animal life within ponds and other bodies of
11		water;
12	(4)	Wind generated energy production for public, private,
13		and commercial use;
14	(5)	Biofuel production, as described in section
15		205-4.5(a)(16), for public, private, and commercial
16		use;
17	(6)	Solar energy facilities; provided that:



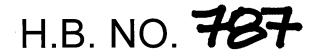
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1		(A)	This paragraph shall apply only to land with soil
2			classified by the land study bureau's detailed
3			land classification as overall (master)
4			productivity rating class B, C, D, or E; and
5		(B)	Solar energy facilities placed within land with
6			soil classified as overall productivity rating
7			class B or C shall not occupy more than ten per
8			cent of the acreage of the parcel, or twenty
9			acres of land, whichever is lesser, unless a
10			special use permit is granted pursuant to section
11			205-6;
12	(7)	Bona	fide agricultural services and uses that support
13		the	agricultural activities of the fee or leasehold
14		owne	r of the property and accessory to any of the
15		abov	e activities, regardless of whether conducted on
16		the	same premises as the agricultural activities to
17		whic	h they are accessory, including farm dwellings as

17 which they are accessory, including farm dwellings as 18 defined in section 205-4.5(a)(4), employee housing, 19 farm buildings, mills, storage facilities, processing 20 facilities, photovoltaic, biogas, and other small-21 scale renewable energy systems producing energy solely



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1 for use in the agricultural activities of the fee or 2 leasehold owner of the property, agricultural-energy facilities as defined in section 205-4.5(a)(17), 3 vehicle and equipment storage areas, and plantation 4 community subdivisions as defined in section 5 6 205-4.5(a)(12); 7 (8) Wind machines and wind farms; Small-scale meteorological, air quality, noise, and 8 (9) other scientific and environmental data collection and 9 monitoring facilities occupying less than one-half 10

11 acre of land; provided that these facilities shall not 12 be used as or equipped for use as living quarters or 13 dwellings;

14 (10) Agricultural parks;

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15 (11) Agricultural tourism conducted on a working farm, or a
16 farming operation as defined in section 165-2, for the
17 enjoyment, education, or involvement of visitors;
18 provided that the agricultural tourism activity is
19 accessory and secondary to the principal agricultural
20 use and does not interfere with surrounding farm
21 operations; and provided further that this paragraph



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1		shall apply only to a county that has adopted
2		ordinances regulating agricultural tourism under
3		section 205-5;
4	(12)	Agricultural tourism activities, including overnight
5		accommodations of twenty-one days or less, for any one
6		stay within a county; provided that this paragraph
7		shall apply only to a county that includes at least
8		three islands and has adopted ordinances regulating
9		agricultural tourism activities pursuant to section
10		205-5; provided further that the agricultural tourism
11		activities coexist with a bona fide agricultural
12		activity. For the purposes of this paragraph, "bona
13		fide agricultural activity" means a farming operation
14		as defined in section 165-2;
15	(13)	Open area recreational facilities[+] <u>including</u>
16		overnight campgrounds; provided that:
17		(A) Overnight campgrounds may be permitted on private
18		property in a county that has adopted ordinances
19		regulating overnight campgrounds on private
20		property;





1		<u>(B)</u>	Daily rents or fees may be charged to users of
2			any overnight campground and may reflect the
3			level of services and facilities that are
4			provided; and
5		<u>(C)</u>	Any county may adopt ordinances permitting the
6			provision of yurts for overnight camping at up to
7			one-third of campsites, but no more than five
8			total campsites, at each overnight campground.
9			As used in this subparagraph, "yurt" means a
10			round, domed shelter made of cloth or canvas
11			covering a collapsible frame that is placed on
12			the ground or on a non-permanent wooden floor and
13			that does not include any plumbing, sewage
14			disposal hookup, or internal cooking appliance;
15	(14)	Geot	hermal resources exploration and geothermal
16		resc	ources development, as defined under section 182-1;
17	(15)	Agri	cultural-based commercial operations, including:
18		(A)	A roadside stand that is not an enclosed
19			structure, owned and operated by a producer for
20			the display and sale of agricultural products
21			grown in Hawaii and value-added products that



1		were produced using agricultural products grown
2		in Hawaii;
3	(B)	Retail activities in an enclosed structure owned
4		and operated by a producer for the display and
5		sale of agricultural products grown in Hawaii,
6		value-added products that were produced using
7		agricultural products grown in Hawaii, logo items
8		related to the producer's agricultural
9		operations, and other food items; and
10	(C)	A retail food establishment owned and operated by
11		a producer and permitted under title 11, chapter
12		12 of the rules of the department of health that
13		prepares and serves food at retail using products
14		grown in Hawaii and value-added products that
15		were produced using agricultural products grown
16		in Hawaii.
17	The	owner of an agricultural-based commercial
18	oper	ation shall certify, upon request of an officer or
19	agen	t charged with enforcement of this chapter under
20	sect	ion 205-12, that the agricultural products





1	displayed or sold by the operation meet the
2	requirements of this paragraph; and
3	(16) Hydroelectric facilities as described in section
4	205-4.5(a)(23).
5	Agricultural districts shall not include golf courses and golf
6	driving ranges, except as provided in section 205-4.5(d).
7	Agricultural districts include areas that are not used for, or
8	that are not suited to, agricultural and ancillary activities by
9	reason of topography, soils, and other related characteristics."
10	SECTION 2. Section 205-4.5, Hawaii Revised Statutes, is
11	amended by amending subsection (a) to read as follows:
12	"(a) Within the agricultural district, all lands with soil
13	classified by the land study bureau's detailed land
14	classification as overall (master) productivity rating class A
15	or B and for solar energy facilities, class B or C, shall be
16	restricted to the following permitted uses:
17	(1) Cultivation of crops, including crops for bioenergy,
18	flowers, vegetables, foliage, fruits, forage, and
19	timber;
20	(2) Game and fish propagation;



1 (3) Raising of livestock, including poultry, bees, fish, 2 or other animal or aquatic life that are propagated 3 for economic or personal use; Farm dwellings, employee housing, farm buildings, or 4 (4) activities or uses related to farming and animal 5 6 husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on 7 and used in connection with a farm, including clusters 8 of single-family farm dwellings permitted within 9 agricultural parks developed by the State, or where 10 agricultural activity provides income to the family 11 occupying the dwelling; 12 Public institutions and buildings that are necessary 13 (5) 14 for agricultural practices; Public and private open area types of recreational 15 (6) uses, including day camps, overnight campgrounds, 16 picnic grounds, parks, and riding stables, but not 17 including dragstrips, airports, drive-in theaters, 18 golf courses, golf driving ranges, and country $clubs[_{\tau}$ 19 and overnight camps]; provided that: 20



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1		<u>(A)</u>	Overnight campgrounds may be permitted on private
2			property in a county that has adopted ordinances
3			regulating overnight campgrounds on private
4			property;
5		<u>(B)</u>	Daily rents or fees may be charged to users of
6			any overnight campground and may reflect the
7			level of services and facilities that are
8			provided; and
9		<u>(C)</u>	Any county may adopt ordinances permitting the
10			provision of yurts for overnight camping at up to
11			one-third of campsites, but no more than five
12			total campsites, at each overnight campground.
13			As used in this subparagraph, "yurt" means a
14			round, domed shelter made of cloth or canvas
15			covering a collapsible frame that is placed on
16			the ground or on a non-permanent wooden floor and
17			that does not include any plumbing, sewage
18			disposal hookup, or internal cooking appliance;
19	(7)	Publ	ic, private, and quasi-public utility lines and
20		road	ways, transformer stations, communications
21		equi	pment buildings, solid waste transfer stations,



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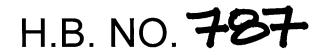
1		major water storage tanks, and appurtenant small
2		buildings such as booster pumping stations, but not
3		including offices or yards for equipment, material,
4		vehicle storage, repair or maintenance, treatment
5		plants, corporation yards, or other similar
6		structures;
7	(8)	Retention, restoration, rehabilitation, or improvement
8		of buildings or sites of historic or scenic interest;
9	(9)	Agricultural-based commercial operations as described
10		in section 205-2(d)(15);
11	(10)	Buildings and uses, including mills, storage, and
12		processing facilities, maintenance facilities,
13		photovoltaic, biogas, and other small-scale renewable
14		energy systems producing energy solely for use in the
15		agricultural activities of the fee or leasehold owner
16		of the property, and vehicle and equipment storage
17		areas that are normally considered directly accessory
18		to the above-mentioned uses and are permitted under
19		section 205-2(d);
20	(11)	Agricultural parks;



Plantation community subdivisions, which as used in 1 (12)2 this chapter means an established subdivision or 3 cluster of employee housing, community buildings, and agricultural support buildings on land currently or 4 formerly owned, leased, or operated by a sugar or 5 pineapple plantation; provided that the existing 6 7 structures may be used or rehabilitated for use, and 8 new employee housing and agricultural support 9 buildings may be allowed on land within the subdivision as follows: 10 The employee housing is occupied by employees or 11 (A) former employees of the plantation who have a 12 13 property interest in the land; The employee housing units not owned by their 14 (B) occupants shall be rented or leased at affordable 15 rates for agricultural workers; or 16 (C) The agricultural support buildings shall be 17 18 rented or leased to agricultural business operators or agricultural support services; 19 Agricultural tourism conducted on a working farm, or a 20 (13)21 farming operation as defined in section 165-2, for the



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1 enjoyment, education, or involvement of visitors; 2 provided that the agricultural tourism activity is accessory and secondary to the principal agricultural 3 4 use and does not interfere with surrounding farm 5 operations; and provided further that this paragraph 6 shall apply only to a county that has adopted 7 ordinances regulating agricultural tourism under section 205-5; 8

Agricultural tourism activities, including overnight 9 (14)accommodations of twenty-one days or less, for any one 10 stay within a county; provided that this paragraph 11 shall apply only to a county that includes at least 12 three islands and has adopted ordinances regulating 13 agricultural tourism activities pursuant to section 14 15 205-5; provided further that the agricultural tourism activities coexist with a bona fide agricultural 16 activity. For the purposes of this paragraph, "bona 17 fide agricultural activity" means a farming operation 18 19 as defined in section 165-2;

20 (15) Wind energy facilities, including the appurtenances
 21 associated with the production and transmission of



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1 wind generated energy; provided that the wind energy 2 facilities and appurtenances are compatible with 3 agriculture uses and cause minimal adverse impact on agricultural land; 4 Biofuel processing facilities, including the 5 (16)6 appurtenances associated with the production and refining of biofuels that is normally considered 7 directly accessory and secondary to the growing of the 8 energy feedstock; provided that biofuel processing 9 facilities and appurtenances do not adversely impact 10 agricultural land and other agricultural uses in the 11 vicinity. 12 For the purposes of this paragraph: 13 "Appurtenances" means operational infrastructure 14 of the appropriate type and scale for economic 15 commercial storage and distribution, and other similar 16 handling of feedstock, fuels, and other products of 17 biofuel processing facilities. 18

19 "Biofuel processing facility" means a facility
20 that produces liquid or gaseous fuels from organic
21 sources such as biomass crops, agricultural residues,





1 and oil crops, including palm, canola, soybean, and 2 waste cooking oils; grease; food wastes; and animal 3 residues and wastes that can be used to generate 4 energy; 5 (17)Agricultural-energy facilities, including 6 appurtenances necessary for an agricultural-energy enterprise; provided that the primary activity of the 7 agricultural-energy enterprise is agricultural 8 activity. To be considered the primary activity of an 9 agricultural-energy enterprise, the total acreage 10 devoted to agricultural activity shall be not less 11 than ninety per cent of the total acreage of the 12 agricultural-energy enterprise. The agricultural-13 energy facility shall be limited to lands owned, 14 15 leased, licensed, or operated by the entity conducting the agricultural activity. 16 17 As used in this paragraph: "Agricultural activity" means any activity 18 described in paragraphs (1) to (3) of this subsection. 19 "Agricultural-energy enterprise" means an 20

enterprise that integrally incorporates an

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1 agricultural activity with an agricultural-energy 2 facility. "Agricultural-energy facility" means a facility 3 that generates, stores, or distributes renewable 4 energy as defined in section 269-91 or renewable fuel 5 including electrical or thermal energy or liquid or 6 gaseous fuels from products of agricultural activities 7 from agricultural lands located in the State. 8 "Appurtenances" means operational infrastructure 9 of the appropriate type and scale for the economic 10 commercial generation, storage, distribution, and 11 other similar handling of energy, including equipment, 12 feedstock, fuels, and other products of agricultural-13 14 energy facilities; Construction and operation of wireless communication 15 (18) antennas; provided that, for the purposes of this 16 paragraph, "wireless communication antenna" means 17 communications equipment that is either freestanding 18 19 or placed upon or attached to an already existing 20 structure and that transmits and receives electromagnetic radio signals used in the provision of 21





all types of wireless communications services;
 provided further that nothing in this paragraph shall
 be construed to permit the construction of any new
 structure that is not deemed a permitted use under
 this subsection;

6 (19)Agricultural education programs conducted on a farming operation as defined in section 165-2, for the 7 education and participation of the general public; 8 provided that the agricultural education programs are 9 accessory and secondary to the principal agricultural 10 use of the parcels or lots on which the agricultural 11 education programs are to occur and do not interfere 12 with surrounding farm operations. For the purposes of 13 this paragraph, "agricultural education programs" 14 15 means activities or events designed to promote knowledge and understanding of agricultural activities 16 and practices conducted on a farming operation as 17 defined in section 165-2; 18

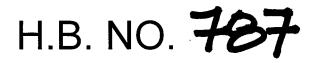
19 (20) Solar energy facilities that do not occupy more than
20 ten per cent of the acreage of the parcel, or twenty
21 acres of land, whichever is lesser or for which a



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special use permit is granted pursuant to section 205-1 6; provided that this use shall not be permitted on 2 lands with soil classified by the land study bureau's 3 detailed land classification as overall (master) 4 productivity rating class A unless the solar energy 5 facilities are: 6 Located on a paved or unpaved road in existence 7 (A) 8 as of December 31, 2013, and the parcel of land 9 upon which the paved or unpaved road is located has a valid county agriculture tax dedication 10 status or a valid agricultural conservation 11 12 easement; Placed in a manner that still allows vehicular 13 (B) traffic to use the road; and 14 Granted a special use permit by the commission 15 (C) pursuant to section 205-6; 16 Solar energy facilities on lands with soil classified 17 (21)by the land study bureau's detailed land 18 classification as overall (master) productivity rating 19 B or C for which a special use permit is granted 20 pursuant to section 205-6; provided that: 21





1	(A)	The a	area occupied by the solar energy facilities
2		is al	so made available for compatible.
3		agric	cultural activities at a lease rate that is
4		at le	east fifty per cent below the fair market
5		rent	for comparable properties;
6	(B)	Proof	of financial security to decommission the
7		facil	ity is provided to the satisfaction of the
8		appro	opriate county planning commission prior to
9		date	of commencement of commercial generation;
10		and	
11	(C)	Sola	r energy facilities shall be decommissioned
12		at tl	ne owner's expense according to the following
13		requ	irements:
14		(i)	Removal of all equipment related to the
15			solar energy facility within twelve months
16			of the conclusion of operation or useful
17			life; and
18		(ii)	Restoration of the disturbed earth to
19			substantially the same physical condition as
20			existed prior to the development of the
21			solar energy facility.



1		For the pu	proses of this paragraph, "agricultural
2		activities	" means the activities described in
3		paragraphs	s (1) to (3);
4	(22)	Geothermal	resources exploration and geothermal
5		resources	development, as defined under section 182-1;
6		or	
7	(23)	Hydroelect	cric facilities, including the appurtenances
8		associated	d with the production and transmission of
9		hydroelect	tric energy, subject to section 205-2;
10		provided (that the hydroelectric facilities and their
11		appurtena	nces:
12		(A) Shall	l consist of a small hydropower facility as
13		defi	ned by the United States Department of
14		Ener	gy, including:
15		(i)	Impoundment facilities using a dam to store
16			water in a reservoir;
17		(ii)	A diversion or run-of-river facility that
18			channels a portion of a river through a
19			canal or channel; and
20		(iii)	Pumped storage facilities that store energy
21			by pumping water uphill to a reservoir at



1		higher elevation from a reservoir at a lower
2		elevation to be released to turn a turbine
3		to generate electricity;
4	(B)	Comply with the state water code, chapter 174C;
5	(C)	Shall, if over five hundred kilowatts in
6		hydroelectric generating capacity, have the
7		approval of the commission on water resource
8		management, including a new instream flow
9		standard established for any new hydroelectric
10		facility; and
11	(D)	Do not impact or impede the use of agricultural
12		land or the availability of surface or ground
13		water for all uses on all parcels that are served
14		by the ground water sources or streams for which
15		hydroelectric facilities are considered."
16	SECTION 3	. Each county may adopt interim rules or
17	ordinances to	regulate overnight camping, to remain in effect
18	until the coun	ity has adopted or amended applicable county codes
19	to conform to	this Act.
20	SECTION 4	. Statutory material to be repealed is bracketed
21	and stricken.	New statutory material is underscored.





1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

JAN 2 0 2017





Report Title: Overnight Campgrounds; Agricultural Districts

Description:

Permits private overnight campgrounds on land within agricultural districts in all counties, subject to specified conditions and adoption of appropriate county ordinances.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

